

Testimony of Lewis Gardner
House Agriculture Committee Hearing
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Canandaigua, New York

I'm Lewis Gardner, a dairy farmer from Galetton, Pennsylvania. My wife Lois and I, along with our two sons, operate a 250-cow dairy and farm 650 acres. We have been in the dairy business for 30 years. I serve on the corporate board of directors for Dairy Farmers of America, Inc. (DFA), a national milk-marketing cooperative based in Kansas City, Mo. with dairy farmer member owners in 48 states. As a Director, I sit on DFA's Government, Member and Public Relations Committee. I also serve as a farmer representative on the National Dairy Board and the board of director of the National Milk Producers Federation.

I represent my fellow local dairymen on various state and regional organizations by serving on the boards of the Pennsylvania Dairy Stakeholders, the ACDI-VOCA and am an executive committee member of the board of the American Dairy Association Dairy Council - Mideast. I am also a director for the Pennsylvania Dairy Promotion Program. Prior to the formation of DFA, I was the past chairman of the Eastern Milk Producers cooperative and past vice- chairman of Milk Marketing Inc. cooperative.

I appreciate the opportunity to testify at this hearing today.

While organizations that I serve have not officially established positions for all of the 2007 Farm Bill issues, I would like to share my thoughts on some of the major themes that will define the dairy sections of the bill.

Before I speak to those issues I would like to thank Chairman Goodlatte and Ranking Member Peterson for their help to all DFA dairy farmer member owners in the passage of S2120 – the producer handler legislation. We worked on this issue for more than three years and it would not have been passed without your support.

- 1) DFA members are participating with all the other members of the National Milk Producers Federation's Dairy Producer Conclaves to develop a consensus position on Farm Bill issues. We will keep you and your staffs informed of our efforts and seek your counsel on issues as we discuss them.

- 2) Because we do not think there will be radical shifts in policy direction as a result of the 2007 Farm Bill we support the view that an extension will work well for most of the nations dairy farm families.
- 3) We feel the next Farm Bill should maintain some form of an economic safety net for dairy farmers. Safety nets prevent prices from falling so low that businesses become unviable. Because dairy products are such an excellent source of nutrition for our nation and due to the high fixed cost of becoming a dairy farmer and the fact that milk production assets have limited use in any other agriculture enterprises, past Congresses have maintained safety net provisions for the dairy industry. We hope this Congress will continue these policies.

The most important safety net provision we have is the dairy price support program. We favor continued operation of the dairy price support program at a targeted \$9.90 U.S. average manufactured milk price. We would oppose granting the Secretary of Agriculture any discretion, which would reorient its intended purpose away from supporting income to farmers just to result in minimizing government costs – and we may need Congress to instruct the Secretary of Agriculture of this fact in some official manner. Under President Bush's proposed Ag budget the Secretary of Agriculture would be allowed to adjust buying prices for products made from milk (cheese, butter, and nonfat dry milk) so as to reduce the cost to the CCC for products purchased. This could allow for a reduction in targeted support price from that \$9.90 as specified in present legislation.

Additionally, I would request that the Commodity Credit Corporation (CCC) take action and adjust the support program purchase price levels for cheese, butter and nonfat dry milk to reflect the significant additional costs manufacturers face when selling products to the CCC. The current CCC purchase prices for dairy products do not reflect any costs beyond those incurred for commercial sales. As a result, market prices for individual products have, from time to time, fallen below support levels, allowing the price of milk used to produce them to fall below the statutory support level for milk of \$9.90 per hundredweight at average test. NMPF has provided information to CCC but thus far CCC has been unwilling to take action. The result is that manufacturers will sell to buyers other than CCC at prices below the support level in order to gain a higher value than the support purchase price and the support price targets are not maintained.

Right now CCC is buying some NFDM – doing what safety nets are supposed to do. The last time milk prices fell to safety net levels was in 2002 when the average Class III price for the year was \$9.74 (below the safety net price of \$9.80 for milk of 3.5% butterfat test). The 10-year average Class III price is \$12.62.

Because the price support program is in place and working we hope to avoid a price crash like in 2002 – but if it wasn't around and prices did fall to that level the Gardner farm would face a loss in income of \$95,000 on an average years production. That would be hard for our business to withstand. We are very interested in stable policies that help to keep reasonable prices and a safety net that maintains some level of viability for a dairy farm family.

The second safety net provision is the Milk Income Loss Compensation (MILC) program, which we support as long as there are no caps limiting access to the benefits. My farm is affected by the payment limitations, restricting my ability to fully take advantage of this program. Like the price support program I view the MILC program as a valuable safety net for producers pay prices. It puts cash in the hands of farmers at the very point it is needed most – the lowest point of the price cycle.

In general the guidelines for a safety net program should be that the program:

- ❑ not discriminate between farmers of differing sizes;
- ❑ not discriminate between farmers in different regions of the country;
- ❑ not be high enough to encourage additional milk production.

The government's safety net policy should only operate at a point where a collapse of producer prices could force too many producers out of business and our nations milk-producing infrastructure would be damaged.

- 4) A majority, but unfortunately not all of the nations dairy farmers, have funded and are operating a self-help program – Cooperatives Working Together (CWT). Dairy farmers voluntarily pay 10 cents per hundredweight on all milk produced in order to structure the size of the nations dairy-cow herd and more closely tailor milk supply to demand. Additionally, the program works to assist exports of dairy products in an attempt to market and promote domestically produced dairy products to the world.

However, the CWT program is not intended to replace federal farm programs and can never do so because there will always be those who choose to take advantage of the programs benefits but never pay their share. Even after two years of successful implementation there are still over 25% of the country's dairy farms that choose not to pay in. In spite of our success we still need Congress's help in providing policy support to our industry.

5) Dairy Farmers also see policies outside of the Farm Bill impacting their future such as:

Environmental Policies

We applied and received funding through the EQIP programs to offset the cost for these practices. Without the cost sharing mechanism it would have been difficult to fund all of these activities.

The implementation of conservation practices on our farm is extremely important to our operation. Increasing the funding for the Environmental Quality Incentives Program (EQIP) in the 2002 Farm Bill was very significant. We have developed a close working relationship with our county NRCS and FSA offices in developing conservation programs for Gardner Glen Farms. We have a nutrient management plan to help control runoff of phosphorus and nitrogen discharges and have also implemented a conservation plan for our entire operation. In addition to making use of EQIP we have also taken part in the State Chesapeake Bay Program, which complements federal efforts to reduce erosion and improve water quality.

There is one conservation program that I have some concerns about. The federal Conservation Reserve Enhancement Program (CREP) was designed to provide water quality protection and wildlife enhancement with landowners through ten-year contracts on eligible land. CREP is a cooperative federal and state effort as state funds are also utilized to augment federal dollars. My concern is based on competition for land needed as cropland in our area. In many cases landowners who are not engaged in farming will place their land in 10-year CREP contracts. In many instances dairy farmers who need additional acreage for hay and corn could crop a good portion of this land. Therefore CREP is working at cross-purposes with dairy production in our region and the program needs to be sensitive to the impact it has locally by competing for land with full time dairy operations.

I urge you to join the more than 170 House members cosponsoring HR 4341 as part of a bipartisan effort to clarify that animal manure is not a hazardous waste under the Superfund law or its counterpart, the Community Right-to-Know Act. Congress should clarify that it never intended to jeopardize American agriculture by imposing strict, joint, several, and retroactive CERCLA liability on farmers for their traditional farming practices, including the use of manure as a beneficial fertilizer.

My family has always taken our responsibility to protect the environment very seriously. Dairy farmers and other agricultural producers for years have been regulated and required to have permits under the Clean Water Act, Clean Air Act and numerous state laws and regulations – but never under the Superfund Law. It is essential that Congress protect farmers and businesses that depend on agriculture from this potential threat to their livelihoods.

Workable Immigration Laws

I support the AGJobs Provisions contained in the Senate version of the Immigration Reform and I ask your support for passage of legislation that contains such language.

Estate Tax issues

Ways & Means Chair Thomas (R-CA) has proposed a compromise on the estate tax issue. He proposes to set several levels of taxes on estates. Estates of \$5 million (singles)--\$10 million (couples) would be exempt from taxation indefinitely. Tax on estates of \$10 million to \$25 million would be taxed at the capital gains rate (15% currently & rising to 20% in 2011). Estates worth more than \$25 million would be taxed at twice the capital gains rate. This proposal appears to be very good for dairy farmers and I would encourage your support.

6) Another reason we support extending the current Farm Bill is so that we can have a more clear view of the Doha Round of the WTO trade talks. We can see no reason to change our programs until we know what the world trade rules will be and more importantly perhaps who will play by them.

- ☐ **We support multilateral trade talks that level the playing field of dairy export subsidies, tariff protections, and domestic support programs.**
- ☐ **We can't support a final agreement unless it represents a net increase in our ability to compete against our more heavily subsidized and protected competitors in the EU, Canada and Japan, as well as more balanced trading opportunities with key developing countries.**
- ☐ **We support the continuation of the dairy price support program with or without a successful Doha Round. We strongly disagree with those who claim that the price support program must be phased out or eliminated upon completion of the Doha Round.**

- ❑ We support additional legislation to make the import assessment for dairy promotion (15 cent check-off) WTO-compliant by extending it to dairy producers in Alaska, Hawaii, District of Columbia and Puerto Rico.
- 7) We support the Dairy Export Incentive Program (DEIP) and the requirement that the Secretary of Agriculture be directed to see that the allowable amounts of cheese, butter and nonfat dry milk be afforded export assistance equal to what we are allowed under the current WTO agreement. Currently no government export assistance is being offered, even though, by law, the Secretary is directed to do so, and by agreement we are allowed to do so under the WTO agreement.
- 8) Finally, we support continuation of the Federal Milk Marketing Order program. Marketing Orders are important to us as they undergird all of our marketing and pricing efforts all over the country. Orders assure dairy farmers a minimum price, assure that all competing milk buyers pay the same minimum price, assure that all dairy farmers share equitably in the returns of the marketplace and assure that the terms of trade are uniform throughout the Order's marketing area. These objectives remain very important ones in the dairy marketplace. Moreover, despite the claims that they are outdated and not relevant, the primary reasons for the institution of milk orders still exist: There are many more buyers than sellers and the average sized milk buyer is much larger than all but the very largest dairy farms. Milk production is still very seasonal. Milk demand has a weekly and seasonal purchase pattern that requires substantial costs to balance producer supplies with buyer demand. Individual dairymen, and even large groups of dairy farmers, continue to need the stability of Orders to deal with these marketing challenges.

We are, however, becoming very frustrated in our attempts to get the Order system to recognize the increasing cost of transporting milk to market, the very real impact that fuel costs play in the transportation equation, and the manner in which costs are presently not equitably shared among all producers in the federal order system. The transportation cost issues have become increasingly important because of: (1) transportation cost increases, especially for diesel fuel, and (2) "flattening" of the Class I price surface in the process of implementation of "Order Reform" by Congressional directive in January 2000.

We seem unable to get the USDA staff to realize the dilemma we face. We have made several proposals to deal with these issues in various orders with the following not-yet-successful results to date:

- ❑ Order 32 - transportation credit proposals rejected in a recommended decision; final decision is pending;
- ❑ Order 33 - transportation credit proposals rejected in a recommended decision; final decision is pending;
- ❑ Order 5 - Hearing held in January, no decision to date;
- ❑ Order 7 - Hearing held in January, no decision to date;
- ❑ Order 1 - No action has been taken upon a formal request for a hearing submitted February 3, 2006;

If USDA fails to help dairy farmers in this dilemma we may need legislation to address this issue.

Also, while we too are frustrated with the slow pace of change thru Federal Order hearings, we are hopeful that reforms underway initiated by USDA will speed up the hearing process and make it easier to get a Decision.

In closing, Chairman Goodlatte, I want to thank the House Committee on Agriculture for having this series of field hearings. We know we can't explain all of our concerns here in detail but want to make you aware of them so that when we do provide you with additional details you will better understand our concerns. I will be happy to answer any questions, or provide any additional information that you might want.